

1 **I. INTRODUCTION AND JURISDICTION**

2 1. This Unilateral Administrative Order ("Order") pertains to property located at 20846
3 Normandie Avenue, Los Angeles County, California ("the 20846 Normandie Avenue Property").
4 The 20846 Normandie Avenue Property consists of the following parcel numbers: 7348-020-003,
5 7348-020-004, 7348-020-007 and 7348-020-008. This Order requires Respondent to conduct the
6 Work required by this Order including but not limited to: a) the preparation, subject to EPA
7 review and approval, of a Field Sampling Plan ("FSP") and Quality Assurance Project Plan
8 ("QAPP") for soil sampling to be conducted at the 20846 Normandie Avenue Property; b)
9 conducting the sampling at the 20846 Normandie Avenue Property, under EPA oversight, as set
10 out in the FSP and QAPP and per EPA's conditions for approval thereof (see Attachment C to
11 this Order); c) conducting any additional sampling of the 20846 Normandie Avenue Property as
12 determined to be necessary by EPA pursuant to Paragraph 78 of this Order; and d) providing
13 EPA all analytical results and other written materials related to the Work as required by and
14 defined in this Order.

15 2. This Order is issued pursuant to the authority vested in the President of the United
16 States by Section 106(a) and Section 104(a) and (b) of the Comprehensive Environmental
17 Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9606(a), 9604(a) and
18 9604(b), as amended ("CERCLA"). The President delegated this authority to the Administrator
19 of the United States Environmental Protection Agency ("EPA" or "Agency") by Executive Order
20 12580, January 23, 1987, 52 Fed. Reg. 2923, and further delegated it to the Assistant
21 Administrator for Solid Waste and Emergency Response and the Regional Administrators by
22 EPA Delegation Nos. 14-14-A and 14-14-B. This authority has been duly redelegated to the
23 Branch Chief, Superfund Division, EPA Region 9 ("Branch Chief"), by delegations dated

September 29, 1997, and November 16, 2001.

3. EPA determined that additional sampling is needed at portions of several properties including the 20846 Normandie Avenue Property. After discussing the nature and scope of the sampling for the 20846 Normandie Avenue Property with EPA which led to the preparation of the FSP and QAPP, Respondent has informed EPA that it is interested in performing the work required of Respondent under this Order because Respondent believes that undertaking such work is necessary to facilitate cost-effective and efficient activities by Respondent in connection with Respondent's potential obligations pursuant to the United States v. Montrose case (Case No. CV 90-3122-R).

II. PARTIES BOUND

4. This Order shall apply to and be binding on Respondent, Montrose Chemical Corporation of California, Inc., and any agents, officers, employees, successors and assigns thereof.

5. No change in ownership or operational status will alter Respondent's obligations under this Order.

6. Notwithstanding the terms of any contract or agreement, Respondent is responsible for compliance with this Order and for ensuring that all employees, contractors, and agents comply with this Order. Respondent shall provide a copy of this Order to all contractors, subcontractors, and consultants retained to perform the Work required by this Order within three (3) working days after the Effective Date of this Order or within three (3) working days of retaining their services, whichever is later.

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2

“Days” shall mean consecutive calendar days unless expressly stated otherwise.

“Working days” shall mean consecutive calendar days other than a Saturday, Sunday, or a federal holiday. In computing any period of time under this Order where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

“EPA” shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

“EPA FSP” shall mean that document entitled “*Draft Field Sampling Plan, Soil Investigation for Historical Stormwater Pathway-South, Montrose Chemical Superfund Site, Los Angeles County, California*” (dated March 2006) prepared by CH2M Hill for EPA.

1 “EPA QAAP” shall mean that document entitled “*Draft Quality Assurance*
2 *Project Plan, Soil Investigation for Historical Stormwater Pathway - South, Montrose Chemical*
3 *Superfund Site, Los Angeles County, California*” (dated March 2006) prepared by CH2M Hill for
4 EPA.

5 “FSP” shall mean the document entitled “*Draft Field Sampling Plan, Soil*
6 *Investigation for Historical Stormwater Pathway - South, Ecology Control Industries Property,*
7 *20846 South Normandie Avenue, Torrance, California 90502*” (dated June 2006) prepared by
8 Earth Tech, Inc. for Montrose Chemical Corporation of California. The FSP is included as
9 Attachment A to this Order.

10 “National Contingency Plan” or “NCP” shall mean the National Oil and
11 Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of
12 CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300.

13 “QAPP” shall mean that document entitled “*Draft Quality Assurance Project*
14 *Plan, Soil Investigation for Historical Stormwater Pathway - South, Ecology Control Industries*
15 *Property, 20846 Normandie Avenue Torrance, California 90502*” (dated June 2006) prepared by
16 Earth Tech for Montrose Chemical Corporation of California. The QAPP is included as
17 Attachment B to this Order.

18 “Paragraph” shall mean a portion of this Order identified by an Arabic numeral.

19 “20846 Normandie Avenue Property” shall mean that real property located at
20 20846 Normandie Avenue, Los Angeles County, California. The 20846 Normandie Avenue
21 Property consists of the following parcels: Los Angeles County Tax Assessor Parcel Numbers
22 7348-020-003, 7348-020-004, 7348-020-007 and 7348-020-008.

1 “Section” shall mean a portion of this Order identified by a Roman numeral,
2 unless otherwise stated.

3 “Site” shall mean the Montrose Chemical National Priorities List Superfund Site.

4 “State” shall mean the state of California, and all of its political subdivisions,
5 including but not limited to the Department of Toxic Substances Control (“DTSC”).

6 “Unilateral Order” or “Order” shall mean this amended Unilateral Administrative
7 Order, EPA docket number 9-2006-22, and any exhibits or attachments hereto.

8 “United States” shall mean the United States of America.

9 “Work” shall mean those response actions required of Respondent by this Order
10 including, but not limited to: a) the preparation, subject to EPA review and approval, of a Field
11 Sampling Plan (FSP) and Quality Assurance Project Plan (QAPP) for soil sampling to be
12 conducted at the 20846 Normandie Avenue Property; b) conducting the sampling at the 20846
13 Normandie Avenue Property, under EPA oversight, as set out in the FSP and QAPP and as
14 modified and supplemented by EPA’s June 21, 2006 letter conditionally approving the FSP and
15 QAPP (Attachment C to this Order); c) conducting any additional sampling of the 20846
16 Normandie Avenue Property as determined to be necessary by EPA pursuant to Paragraph 78 of
17 this Order; and d) providing EPA all analytical results and other written materials related to the
18 Work as required by and defined in this Order.

19 IV. FINDINGS OF FACT

20 8. Montrose Chemical Corporation of California, Inc., (“Montrose”) manufactured the
21 pesticide DDT at 20201 Normandie Avenue, Los Angeles County, California (“the Montrose
22 Plant Property”) from 1947 until the summer of 1982. Montrose also conducted DDT grinding

1 and DDT formulation activities at the Montrose Plant Property. The Montrose Plant Property
2 was the only location in California where technical grade DDT was produced. The Montrose
3 Plant Property was the only location in the Torrance, California area where DDT grinding and
4 DDT formulation were conducted.

5 9. During Montrose's operations at the Montrose Plant Property, DDT and other
6 hazardous substances, including but not limited to monochlorobenzene, were released into the
7 environment at and from the Montrose Plant Property.

8 10. EPA has determined that DDT is a probable human carcinogen. DDT also exhibits
9 non-cancer toxicity in the liver and nervous system. DDT is toxic to aquatic life and can cause
10 reproductive failure in birds.

11 11. During the period of Montrose's operations at the Montrose Plant Property, the
12 Montrose Plant Property was owned by Stauffer Chemical Company.

13 12. From at least 1954 until 1963, Stauffer Chemical Company owned and operated a
14 plant that produced technical grade benzene hexachloride ("BHC") and lindane ("gamma BHC")
15 at the Montrose Plant Property. The Stauffer BHC/lindane operations were the only such
16 operations in the Torrance area.

17 13. BHC occurs as a number of isomers including alpha-BHC, beta-BHC and gamma-
18 BHC.

19 14. Lindane is produced by isolating the gamma-BHC isomer from the other BHC
20 isomers present in technical grade BHC.

21 15. EPA has determined that alpha-BHC and BHC are probable human carcinogens.

22 16. EPA has determined that beta-BHC is a possible human carcinogen.

1 17. EPA has determined that exposure to gamma-BHC can result in liver and kidney
2 toxicity.

3 18. EPA has determined that polychlorinated biphenyls ("PCBs") and chlordane are
4 probable human carcinogens.

5 19. From information presently available to EPA, EPA does not believe that the PCBs
6 and chlordane found in soil samples from the 20846 Normandie Avenue Property originated with
7 releases from the Montrose Plant Property.

8 20. EPA placed the Montrose Chemical Superfund Site on the CERCLA National
9 Priorities List in 1989.

10 21. Since the beginning of Montrose's operations at the Montrose Plant Property until
11 the early 1970's, a historical stormwater pathway existed that originated at the Montrose Plant
12 Property. Stormwater runoff from the Montrose Plant Property flowed into a drainage ditch
13 south of the Montrose Plant Property along Normandie Avenue ("the Normandie Avenue
14 Ditch"). The stormwater pathway continued under Normandie Avenue and along a portion of
15 204th Street and then along the west side of Kenwood Avenue to Torrance Boulevard via an
16 unimproved drainage ditch ("the Kenwood Ditch"). The stormwater pathway continued under
17 Torrance Boulevard, through the eastern portion of the 20846 Normandie Avenue Property, and
18 beyond.

19 22. In the late 1960's and early 1970's, Los Angeles County installed a stormdrain
20 ("Project 685") along a portion of the historical stormwater pathway. Stormwater which had
21 previously flowed within the Kenwood Ditch and the segment of the historical stormwater
22 pathway south of Torrance Boulevard traversing the 20846 Normandie Avenue Property and
23 properties beyond was then contained within the Project 685 stormdrain. Los Angeles County

1 has an easement for the portion of Project 685 that runs through the 20846 Normandie Avenue
2 Property.

3 23. Process wastewater (containing DDT) from DDT manufacturing operations at the
4 Montrose Plant Property was occasionally released from the Montrose Plant Property prior to
5 1955. In February 1953, City of Los Angeles officials discovered ponded process wastewater
6 from the Montrose Plant Property at the corner of 204th Street and Kenwood Avenue.

7 24. DDT and isomers of BHC at the Montrose Plant Property were also periodically
8 carried into and down the historical stormwater pathway with rainwater.

9 25. Concentrations of DDT in soil at the Montrose Plant Property are present at levels
10 in excess of 24,000 parts per million ("ppm"). DDT is also present at the Montrose Plant
11 Property at levels (up to 710,000 ppm) consistent with the presence of spilled or discarded
12 product, intermediates or off-specification technical or formulated DDT.

13 26. The maximum concentration, reported in the 1998 Remedial Investigation Report,
14 of DDT in soil in the Normandie Avenue Ditch south of the Montrose Plant Property is 8,600
15 ppm.

16 27. DDT was detected in soil at 16 residential properties along the historical
17 stormwater pathway on 204th Street and Kenwood Avenue at concentrations above 17 ppm
18 (exposure point concentration corresponding to a 10^{-5} excess lifetime cancer risk); and was above
19 170 ppm DDT (exposure point concentration corresponding to a 10^{-4} excess lifetime cancer risk)
20 at six of those properties. At three Kenwood Avenue residential properties, a depositional white
21 layer was discovered containing up to 10% DDT by weight during Site removal activities. The
22 soil containing these DDT levels was removed by EPA as part of the Kenwood Avenue Removal
23 Action.

1 28. EPA has previously determined that the regional background DDT concentrations
2 in residential surface soils in Los Angeles County averaged between 1 and 3 ppm DDT, and
3 ranged up to 10 ppm.

4 29. The 20846 Normandie Avenue Property occupies approximately 7.7 acres and is
5 located southeast of the Montrose Plant Property along Normandie Avenue. The 20846
6 Normandie Avenue Property is zoned commercial.

7 30. Seven residential properties are located along or proximate to the eastern boundary
8 of the 20846 Normandie Avenue Property. The 20846 Normandie Avenue Property is separated
9 from the residential properties by a chain link fence with slats (northern portion) and a cinder
10 block fence (southern portion).

11 31. The 20846 Normandie Avenue Property is occupied by Ecology Control Industries,
12 Inc., ("ECI"), a registered hazardous waste transporter. ECI conducts operations at the 20846
13 Normandie Avenue Property as part of its business as a hazardous waste transporter.

14 32. ECI is owned by Mr. Ronald J. Flury.

15 33. The 20846 Normandie Avenue Property is owned by Mr. Ronald J. Flury.

16 34. The historical stormwater pathway passed through the eastern portion of the 20846
17 Normandie Avenue Property and portions of the adjacent residential properties.

18 35. Soil sampling was conducted in 2005 at the 20846 Normandie Avenue Property as
19 part of site assessment activities commissioned by the 20846 Normandie Avenue Property
20 owner, Mr. Flury.

21 36. The maximum concentration of DDT found in sampling conducted in 2005 by Mr.
22 Flury at the 20846 Normandie Avenue Property was 325 ppm. The sample was taken in the area
23 of the 20846 Normandie Avenue Property where the historical stormwater pathway was located.

1 37. Thirteen percent of the samples collected at the 20846 Normandie Avenue Property
2 in 2005 exceeded 10 ppm, the upper range of the regional background DDT concentration. All
3 samples exceeding 10 ppm were collected from the Property in the area of the historical
4 stormwater pathway. These soil sample results also exceed the State of California hazardous
5 waste toxicity characteristic level for DDT of 1 ppm.

6 38. Alpha-BHC and beta-BHC isomers are present in soil at the Montrose Plant
7 Property. Alpha-BHC and beta-BHC have also been detected in the historical stormwater
8 pathway, including the Normandie Avenue Ditch south of the Montrose Plant Property and along
9 the west side of Kenwood Avenue.

10 39. Isomers of BHC were detected in soil samples collected in the area of the historical
11 stormwater pathway at the 20846 Normandie Avenue Property. In addition, chlordane, PCBs
12 and total petroleum hydrocarbons were detected in soil samples from this area. The maximum
13 reported soil sample result for total chlordanes (4.45 ppm) exceeds the State of California
14 hazardous waste toxicity characteristic level for chlordane of 2.5 ppm.

15 40. At the direction of Mr. Flury, Ecology Control Industries excavated contaminated
16 soil found at 20846 Normandie Avenue Property between March and early June of 2005. An
17 estimated 3,000 cubic yards of soil were removed by ECI from five excavations, primarily from
18 the area where the historical stormwater pathway was located. Four of the five excavated areas at
19 the 20846 Normandie Avenue Property were adjacent to the eastern property boundary and
20 residential properties.

21 41. EPA became aware of soil sampling activities, excavation activities and DDT
22 contamination at the 20846 Normandie Avenue Property in late May and early June 2005
23 through telephone conversations with Mr. Flury's consultants who had contacted EPA for

1 information.

2 42. Excavated soil was stored by ECI in piles, some partially or fully covered with plastic
3 sheeting, on the eastern portion of the 20846 Normandie Avenue Property. At the request of
4 EPA, these soil piles were all fully covered in July of 2005 and remained covered until those
5 piles were removed and transported for off-site disposal in January 2006.

6 43. In July 2005, EPA concluded that hazardous substances (DDT and isomers of
7 BHC) historically released from the Montrose Plant Property into the historical stormwater
8 pathway have come to be located on the 20846 Normandie Avenue Property, and extended its
9 remedial investigation of the Montrose Superfund Site historical stormwater pathway to include
10 the 20846 Normandie Avenue Property.

11 44. Eighteen (18) soil samples, collected on behalf of Mr. Flury, at the 20846
12 Normandie Avenue Property had DDT concentrations exceeding 17 ppm, which corresponds to a
13 10^{-5} excess cancer risk for lifetime residential exposure; these were collected from the area of the
14 historical stormwater pathway within twenty to forty feet of the adjacent residential properties
15 (i.e., from excavations SB-05, SB-09 and SB-20).

16 45. Six (6) samples taken from the area of the historical stormwater pathway at the
17 20846 Normandie Avenue Property had DDT concentrations exceeding 35 ppm which is the
18 concentration corresponding to a noncancer Hazard Index of 1 for a residential exposure
19 scenario. These samples were collected from between two and five feet below ground surface in
20 the areas of soil borings SB-05 and SB-20, adjacent to the fence line separating the 20846
21 Normandie Avenue Property from residential properties.

22 46. On November 2, 2005, EPA issued a CERCLA Removal Action Memorandum
23 selecting response actions to address the soil piles and open excavations at the 20846 Normandie

1 Avenue Property. The Removal Action Memorandum concluded that “[a]ctual or threatened
2 releases of hazardous substances found in the excavated soils at the ECI Property, if not
3 addressed by implementing the response action selected in this Action Memorandum, may
4 present an imminent and substantial endangerment to public health, or welfare or the
5 environment.” The Action Memorandum called for the transportation of the excavated
6 contaminated soil from the 20846 Normandie Avenue Property to an appropriate offsite disposal
7 facility.

8 47. On November 21, 2005, EPA issued a Unilateral CERCLA Administrative Order
9 for Removal Activities (U.S. EPA, Region 9, CERCLA Docket No. 09-2006-02) to Montrose
10 Chemical Corporation of California, Inc., Mr. Ronald Flury and ECI, requiring, in relevant part,
11 that the excavated soil be transported offsite and disposed of at an appropriate disposal facility.
12 On December 12, 2005, EPA issued an amended unilateral order (U.S. EPA Region 9, CERCLA
13 Docket No. 09-2006-02A) to clarify some of the requirements of that order.

14 48. In January 2006, the excavated soil was transported from the 20846 Normandie
15 Avenue Property to the U.S. Ecology facility in Beatty, Nevada for disposal. Backfilling of the
16 excavations at the 20846 Normandie Avenue Property has not been completed.

17 49. EPA has determined that “data are not adequate to characterize the vertical and
18 lateral extent of Montrose-related contaminants” in a portion of the historical stormwater
19 pathway south of Torrance Boulevard (including the 20846 Normandie Avenue Property and the
20 seven adjacent properties), and that additional characterization of this portion of the historical
21 stormwater pathway is necessary. This additional sampling will assist in EPA’s remedial
22 investigation at the Site. An existing RI/FS administrative order on consent with Montrose (EPA
23 Region 9 CERCLA Docket No. 85-04, as amended) includes a provision for recovery of RI/FS

oversight costs from Montrose.

50. EPA's contractor prepared the EPA FSP and EPA QAPP (dated March 2006) to characterize soil from those portions of the 20846 Normandie Avenue Property and seven adjacent residential properties within the interpreted extent of this portion of the historical stormwater pathway ("the Study Area"). The draft EPA FSP and EPA QAPP were provided to counsel for Montrose, Mr. Flury and ECI on May 3, 2006.

51. The EPA FSP states that the soil sampling set forth in the EPA FSP would generate data that could be used by EPA in (a) evaluating the human health risks associated with contamination detected in the Study Area, and (b) in evaluating the need for further removal or response action(s), if any, to address actual or threatened releases of hazardous substances and related risks to human health and the environment.

52. Los Angeles County has the responsibility for any future repair or replacement of the Project 685 drain.

53. Excavation of any contaminated soil (e.g., by the owner of the 20846 Normandie Avenue Property, or for the purpose of maintaining, repairing or replacing the portion of the Project 685 drain that traverses the property) could expose workers to contaminated soil and/or result in releases of hazardous substances to the environment and/or to adjacent residential properties that may present an imminent and substantial endangerment to human health or welfare or the environment.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the above Findings of Fact, EPA makes the following conclusions of law and determinations:

1 54. The 20846 Normandie Avenue Property is a facility as defined by Section 101(9) of
2 CERCLA, 42 U.S.C. Section 9601(9).

3 55. The Montrose Plant Property is a facility as defined by Section 101(9) of CERCLA,
4 42 U.S.C. Section 9601(9).

5 56. The Montrose Chemical National Priorities List Superfund Site is a facility as
6 defined by Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9).

7 57. DDT, DDE and DDD are “hazardous substances” as defined by Section 101(14) of
8 CERCLA, 42 U.S.C. Section 9601(14). Alpha-BHC, beta-BHC and gamma-BHC are all
9 hazardous substances as defined by CERCLA Section 101(14). Chlordane is a “hazardous
10 substance” as defined by CERCLA Section 101(14). Polychlorinated biphenyls (PCBs) are
11 “hazardous substances” as defined by CERCLA Section 101(14).

12 58. Respondent, Montrose Chemical Corporation of California, Inc., is a “person” as
13 defined by Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).

14 59. Respondent, Montrose Chemical Corporation of California, Inc., is liable, under
15 Section 107(a)(2) of CERCLA, 42 U.S.C. Section 9607(a)(2), for all response costs incurred by
16 the United States with overseeing the Work required by this Order. Should Montrose fail to
17 conduct all or any portion of the Work required by this Order, Montrose is liable, under Section
18 107(a)(2) of CERCLA, 42 U.S.C. Section 9607(a)(2), for all response costs incurred by the
19 United States.

20 60. Conditions at the 20846 Normandie Avenue Property, as described in the Findings
21 of Fact above, constitute or may constitute an actual or threatened “release” of hazardous
22 substances from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. Section
23 9601(22).

1 61. Conditions at the 20846 Normandie Avenue Property as described in the Findings
2 of Fact constitute or may constitute an imminent and substantial endangerment to public health,
3 welfare or the environment. The Work required by this Order is necessary to protect the public
4 health, welfare or the environment; will expedite Remedial Investigation activities; and is not
5 inconsistent with the National Contingency Plan, 40 C.F.R. Part 300, or CERCLA.

6 **VI. NOTICE TO THE STATE**

7 62. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), EPA has
8 notified the State of California of the issuance of this Order by providing a copy of this Order.

9 **VII. EFFECTIVE DATE**

10 63. This Order **will be effective June 30, 2006.**

11 **VIII. ORDER**

12 64. Based on the Findings of Fact, Conclusions of Law and Determinations, **EPA**
13 **hereby orders Respondent** to perform the Work under the direction of the EPA Remedial
14 Project Manager ("RPM"), as designated in Paragraph 99 of this Order, and to comply with all
15 requirements of this Order until EPA provides notice that the Work is complete.

16 A. **Work to be Performed**

17 65. The purpose of the Work required by this Order is to determine if additional hazardous
18 substance contamination is present in soil at the portion of the 20846 Normandie Avenue
19 Property within the EPA-interpreted extent of the historical stormwater pathway for the Study

1 Area. Such information will assist EPA in determining if any additional sampling is needed to
2 further characterize the nature and extent of hazardous substances present within the Study Area.
3 In addition, such information may also be used to assist EPA in evaluating the human health risks
4 associated with contaminants found within the Study Area, and at the 20846 Normandie Avenue
5 Property, and assist EPA in evaluating the need for any further removal or remedial action(s) to
6 address actual or threatened releases of hazardous substances and related risks to human health
7 and the environment. Generally, the Work required by this Order includes, but is not limited to:
8 a) the preparation by the Respondent of a Field Sampling Plan ("FSP") and Quality Assurance
9 Project Plan ("QAPP") for characterization of the 20846 Normandie Avenue Property, subject to
10 EPA review and approval; b) conducting the sampling at the 20846 Normandie Avenue
11 Property, under EPA oversight, as set out in the FSP and QAPP and per EPA's conditions for
12 approval thereof (see Attachment C to this Order); c) conducting any additional sampling of the
13 20846 Normandie Avenue Property as determined to be necessary by EPA pursuant to the
14 findings of the FSP field activities and sampling results, and pursuant to Paragraph 78 of this
15 Order; d) providing EPA all analytical results and other written materials related to the Work.
16 Respondent shall furnish or arrange for all necessary personnel, material, and equipment and
17 services needed or incidental to performing the Work.

18 66. On June 2, 2006, Montrose submitted the *Draft Field Sampling Plan, Soil Investigation*
19 *for Historical Stormwater Pathway - South, Ecology Control Industries Property, 20846 South*
20 *Normandie Avenue, Torrance California 90502, and the Draft Quality Assurance Project Plan,*
21 *Soil Investigation for Historical Stormwater Pathway - South, Ecology Control Industries*
22 *Property, 20846 South Normandie Avenue, Torrance California 90502* for soil sampling at the

1 20846 Normandie Avenue Property. On June 21, 2006, EPA conditionally approved the FSP and
2 QAPP for the 20846 Normandie Avenue Property. The conditionally approved FSP and QAPP
3 are included as Attachments A and B to this Order, respectively. The EPA June 21, 2006 letter
4 conditionally approving those two documents is included as Attachment C to this Order. EPA's
5 June 21, 2006 letter conditionally approving the FSP and QAPP shall have the force and effect
6 set forth in Paragraph 82 of this Order with respect to an EPA conditional approval of a
7 deliverable.

8 67. **On or before July 5, 2006**, Respondent shall submit a schedule for the completion of
9 the Work required under this Order. This schedule is subject to EPA review and approval. Once
10 approved by EPA, this schedule may only be modified by the Respondent with the prior approval
11 of EPA.

12 68. The EPA approved schedule, the FSP and the QAPP, and EPA's conditional approval
13 letter (Attachment C to this Order) shall be deemed to be incorporated into and made a fully
14 enforceable part of this Order. Failure to comply with the FSP and/or QAPP as conditionally
15 approved by EPA, or any deadline established in the EPA approved schedule, or any other Work
16 requirement established by this Order shall constitute a violation of this Order.

17 69. Respondent shall prepare a Health and Safety Plan ("HASP") in accordance with
18 current EPA and EPA Region 9 guidance documents and in compliance with all current OSHA
19 regulations applicable to Hazardous Waste Operations and Emergency Response, 29 C.F.R. Part
20 1910. On June 19, 2006, EPA received a HASP, as a separate document review. Respondent
21 shall review any EPA-recommended changes to the HASP, incorporating as appropriate, and
22 implement the HASP throughout the performance of field activities (which are a subset of the

1 Work required by this Order).

2 70. Respondent shall demonstrate, in advance of conducting the field activities required by
3 this Order that all laboratories that Respondent plans to use are qualified to conduct the proposed
4 Work. The Respondent will demonstrate that the laboratory, and type of laboratory analyses, that
5 may be utilized will meet the Quality Assurance/Quality Control ("QA/QC") requirements
6 specified here, as well as in the FSP, QAPP, and EPA's conditional approval letter for those two
7 documents. Each laboratory must have and follow an approved QA program. Further,
8 Respondent shall only use laboratories which have a documented Quality Assurance Program
9 which complies with ANSI/ASQC E-41994, *"Specifications and Guidelines for Quality Systems*
10 *for Environmental Data Collection and Environmental Technology Programs"* (American
11 *National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans*
12 *(QA/R-2)"* (EPA/240/B-01-002, March 2001) or equivalent documentation as determined by
13 EPA. These items must be submitted for EPA review, comment and approval, as required in
14 EPA's June 21, 2006 letter conditionally approving the FSP and QAPP. Respondent will
15 provide assurances that EPA has access to laboratory personnel, equipment and records, as well
16 as information and persons related to sample collection, transportation, and analysis.

17 71. The Respondent will initiate field activities consistent with the schedule to be
18 submitted to and approved by EPA. Respondent will notify EPA of any and all field activities at
19 least seven (7) days prior to initiating them so that EPA may adequately schedule oversight tasks.
20 A field activities schedule will be prepared, submitted to EPA, and maintained, in accordance
21 with the requirements in the EPA conditional approval letter (Attachment C to this Order). The
22 Respondent will notify EPA in writing upon completion of field activities as defined in the FSP,

1 QAPP and the EPA conditional approval letter.

2 72. Respondent will allow EPA to have access and to conduct all oversight of
3 Respondent's field activities as determined to be necessary by EPA, including but not limited to:
4 a) observation of mobilization and demobilization activities, b) observation of daily equipment
5 calibration and setup, c) observation of decontamination activities, d) observation of soil
6 sampling and sample collection, e) observation of sample handling, sample identification, sample
7 documentation and packaging of samples, f) review of all documentation prepared in the field
8 related to soil sampling, packaging and transportation including but not limited to field logs or
9 notes and chain-of-custody records, and g) allowing and preparing quality control samples as
10 required in the EPA conditional approval letter (Attachment C to this Order).

11 73. Respondent shall ensure that copies of the FSP and QAPP, and EPA's conditional
12 approval letter for those documents, as well as the HASP, are maintained and available in the
13 field during all field activities.

14 74. Information gathered during field activities (which are a subset of the Work) will be
15 consistently documented and adequately recorded by the Respondent and Respondent's
16 contractors in well maintained field logs, records and/or reports. Respondent shall make these
17 documents available to EPA and its contractors and assigns upon request for purposes of
18 oversight or audit. Such documents should include, but are not limited to the following:

19 a) Field records must be maintained and utilized to document field observations,
20 activities, measurements, procedures, and significant events that occur during field
21 activities, including: the time and date of such activities, field events and unplanned
22 circumstances, field decisions, personnel present, equipment used, calibration of

1 equipment, compliance with the FSP and QAPP, and EPA's conditional approval letter
2 for those documents, sample preservation and shipment, and related information. These
3 will be kept continually by field staff during field activities.

4 b) Laboratory documentation of all procedures shall be recorded and kept by the
5 laboratory, including but not limited to: sample custody, analytical responsibility,
6 analytical results, adherence to prescribed protocols, nonconformity events, corrective
7 measures, data deficiencies, calibration, times of analysis, holding times, dilutions, and
8 any other information necessary to verify data quality.

9 75. The Respondent will provide to EPA all field logs and reports, sample shipment records,
10 analytical results, and QA/QC reports. Analytical results included in any final data packages
11 must be accompanied by or cross-referenced to a corresponding QA/QC report. In addition, the
12 Respondent will establish a data security system to safeguard chain-of-custody forms and other
13 project records to prevent loss, damage, or alteration of project documentation.

14 76. The Respondent shall perform validation of data generated by the Respondent in
15 accordance with the FSP and QAPP, and EPA's conditional approval letter for those two
16 documents. Data validation shall include a review of laboratory and field quality control and
17 quality assurance documentation and chromatograms (and other instrument output) including but
18 not limited to duplicates, blanks, spikes, calibration of instruments, holding times, laboratory
19 sample handling procedures, sample preservation, activity in accordance with approved methods,
20 quantification and detection limits, and other related factors. In addition, at the request of EPA,
21 the Respondent in conjunction with its laboratory shall provide to EPA any documentation
22 necessary for EPA to perform a partial or full validation of the data. EPA validation reviews

1 shall be performed on a percentage of the data to be determined by EPA.

2 77. Respondent shall provide to EPA all preliminary analytical data for each and any
3 sample taken at the 20846 Normandie Avenue Property, within 3 working days after such data is
4 received by Respondent. Respondent shall provide to EPA all complete and final analytical data
5 for each and any sample taken at the Property, within 3 working days after such data is received
6 by Respondent. Data shall be transmitted to EPA, in electronic format agreeable to EPA, to meet
7 the time-frames set out above. Respondent shall also provide hard copies to EPA of all complete
8 and final laboratory data packages for any and all samples subject to chemical or physical
9 analysis.

10 78. Within 7 days of transmitting preliminary data results to EPA, Respondent's and EPA's
11 technical representatives will confer regarding the need for and locations of additional sampling
12 or re-sampling at the 20846 Normandie Avenue Property. Decisions regarding the need for such
13 sampling must follow the relevant provisions of the FSP, QAPP and the EPA conditional
14 approval letter (included as Attachment C to this Order). Respondent shall then submit a
15 proposal to EPA for such soil sampling at the 20846 Normandie Avenue Property, within a time
16 frame to be determined by EPA. Should EPA disapprove Respondent's proposal for additional
17 sampling, EPA may require Respondent to conduct the EPA specified sampling. Any additional
18 sampling required by EPA under this Paragraph shall be considered part of the Work required of
19 Respondent under this Order. EPA may also modify the schedule for the Work required by this
20 Order to incorporate or change deadlines for this additionally required Work.

1 79. Respondent shall submit a complete draft field characterization and sampling data report
2 to EPA within 12 weeks of completing field activities for sampling at the Property. That report
3 should present text, tables, and figures to precisely characterize: all sampling locations, all
4 samples taken, the sampling process, all validated data for all analytical findings, any deviations
5 from FSP and QAPP, and EPA's conditional approval letter for those two documents, and
6 significant issues encountered during the sampling and or analysis. The report should present a
7 concise summary of the sampling data results for all sampling conducted by Respondent at the
8 Property, including additional sampling, if required. However, it should not include
9 interpretation of such results.

10 80. **On or before July 10, 2006**, Respondent shall provide EPA with documentation
11 that reasonably demonstrates its financial ability to complete the work to be performed pursuant
12 to this Order. Examples of adequate financial documentation that EPA may accept include, but
13 are not limited to: a signed contract with or guarantee on the part of the Respondent's contractor
14 indicating that it will complete the work to be performed (including payment terms, such as
15 whether the contract is pre-paid); an irrevocable letter of credit payable to EPA from a financial
16 institution; a policy of insurance that provides EPA with acceptable rights as a beneficiary
17 thereof; an escrow account for the value of the work to be performed; or, a demonstration by the
18 Respondent that it has adequate net worth and/or cash flow to pay for the work to be performed
19 (which may include financial statements, auditors' reports, and the like).

20 81. Except as provided in Paragraph 93, all documents, including technical reports,
21 and other correspondence to be submitted by Respondent pursuant to this Order, shall be sent by
22 over-night mail to the following addressee, or to such other addressees as EPA hereafter may
23 designate in writing, and shall be deemed submitted on the date received by EPA:

1 Susan Keydel, Remedial Project Manager

2 Mailcode SFD-7-1

3 U.S. EPA, Region 9

4 75 Hawthorne Street

5 San Francisco, CA 94105

6 Respondent shall submit three (3) copies of each document to EPA, unless EPA agrees otherwise
7 on a document specific basis. Correspondence from the EPA RPM to the Project Coordinator (as
8 defined in Paragraph 99 of this Order) shall also be copied to Mr. Paul Sundberg, Montrose's
9 overall Project Manager for the Montrose Chemical Superfund Site.

10 82. EPA shall review, comment, and approve or disapprove each plan, report, or other
11 deliverable submitted by Respondent. All EPA comments on draft deliverables shall be
12 incorporated by Respondent. At the sole discretion of EPA, EPA may conditionally approve a
13 deliverable in which case EPA's comments are deemed to be incorporated by reference into the
14 deliverable (and are enforceable as part of that deliverable) but Respondent need not revise the
15 deliverable itself. EPA shall notify Respondent in writing of EPA's approval, conditional
16 approval or disapproval of a deliverable. All plans, schedules, and other reports that require
17 EPA's approval and are required to be submitted by Respondent pursuant to the EPA conditional
18 approval letter (Attachment C to this Order) or pursuant to this Order shall, after approval by
19 EPA, be incorporated into and be enforceable under this Order. In the event of any disapproval,
20 EPA shall specify the reasons for such disapproval, EPA's required modifications, and a time
21 frame for submission of the revised report, document, or deliverable. If the modified report,
22 document or deliverable is disapproved by EPA, EPA shall notify Respondent of its disapproval
23 of the resubmitted report, document, or deliverable. EPA may elect to draft its own report,

document or deliverable and incorporate it as part of this Order, may seek penalties from the Respondent for failing to comply with this Order, and may conduct the remaining work required by this Order and seek to recover costs from Respondent.

83. For purposes of this Order, EPA's authorized representatives shall include, but not be limited to, consultants and contractors hired by EPA to oversee the activities required by this Order.

B. Selection of Contractor(s) and Subcontractor(s)

84. All Work performed by or on behalf of Respondent pursuant to this Order shall be performed by qualified individuals or contractors with expertise in hazardous waste site investigation or remediation, unless agreed otherwise by EPA. Montrose has notified EPA that Earth Tech, Inc. will serve as the Montrose's prime contractor for the Work required by this Order. EPA, based on its prior experience working with Earth Tech, Inc. at the Site, accepts Montrose's designation of Earth Tech, Inc., as its contractor.

85. Respondent may propose to change the individual(s), contractor(s), or subcontractor(s) retained to conduct the Work required by this Order. If Respondent wishes to propose such a change, Respondent shall notify EPA, in advance and in writing, of the name, title, and qualifications of the proposed individual(s), proposed contractor(s), or proposed subcontractor(s), and such individual(s), contractor(s) or subcontractor(s) shall be subject to approval by EPA in accordance with the terms of Paragraphs 84, 85 and 86 of this Order. The naming of any replacement(s) by Respondent shall not extend any deadlines required by this Order nor relieve Respondent of any of its obligations to perform the Work required by this Order.

1 86. If EPA disapproves of any person's or contractor's technical or work-experience
2 qualifications, EPA will notify Respondent in writing. Respondent shall, within five (5) working
3 days of Respondent's receipt of EPA's written notice, notify EPA of the identity and
4 qualifications of the replacement(s). Should EPA disapprove of the proposed replacement(s),
5 Respondent shall be deemed to have failed to comply with the Order.

6 87. **On or before July 10, 2006**, Respondent shall submit to EPA a certification that
7 Respondent or their contractor(s) and subcontractor(s) have adequate insurance coverage or other
8 ability, subject to approval of EPA, to compensate for liabilities for injuries or damages to
9 persons or property that may result from the activities to be conducted by or on behalf of
10 Respondent pursuant to this Order. Adequate insurance shall include comprehensive general
11 liability insurance and automobile insurance with limits of one million dollars, combined single
12 limit. If Respondent demonstrates by evidence satisfactory to EPA that any contractor or
13 subcontractor maintains insurance equivalent to that described above, or insurance covering the
14 same risks but in a lesser amount, then Respondent need provide only that portion of the
15 insurance described above that is not maintained by such contractor or subcontractor.
16 Respondent shall ensure that such insurance or indemnification is maintained for the duration of
17 performance of the Work required by this Order. Respondent shall ensure that the United States
18 is named as an additional insured on any such insurance policies.

19 C. General Provisions

20 88. All Work required by this Order shall be conducted in accordance with CERCLA,
21 the NCP, and current EPA and EPA Region 9 guidance documents.

22 89. EPA will oversee Respondent's activities. Respondent will support EPA's
23 initiation and implementation of activities needed to carry out its oversight responsibilities.

1 Respondent also shall cooperate and coordinate the performance of all Work required to be
2 performed under this Order with all other work being performed at the 20846 Normandie Avenue
3 Property or another location (e.g., the Montrose Plant Property), including work performed by
4 EPA, its authorized representatives, and the State.

5 90. Respondent shall perform all actions required pursuant to this Order in accordance
6 with all applicable local, state, and federal laws and regulations except as provided in Section
7 121(e) of CERCLA, 42 U.S.C. § 9621(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In
8 accordance with 40 C.F.R. § 300.415(j), all on-site actions required pursuant to this Order shall,
9 to the extent practicable, as determined by EPA, considering the exigencies of the situation,
10 attain any applicable or relevant and appropriate requirements (or independently applicable
11 requirements) under federal environmental or state environmental or facility siting laws. Prior to
12 shipping any hazardous substances, pollutants, or contaminants to an off-site facility for
13 treatment and/or disposal, Respondent shall obtain EPA's acknowledgment that the proposed
14 receiving facility is operating in compliance with the requirements of CERCLA Section 121(d),
15 42 U.S.C. Section 9621(d)(3), and 40 C.F.R. Section 300.440. Any off-site shipment by
16 Respondent of hazardous substances, pollutants or contaminants must comply with all applicable
17 laws including but not limited CERCLA, state or federal (RCRA) hazardous waste laws, and
18 state or federal laws concerning the management or disposal of PCB contaminated soil.
19 Respondent shall inform EPA of the schedule for such shipments and the name/location of the
20 proposed receiving facility a minimum of seven (7) calendar days in advance of such shipments.
21 Respondent shall include all information regarding such shipments (including manifests) in the
22 report required under Paragraph 79 of this Order.

1 **IX. NOTICE OF INTENT TO COMPLY**

2 91. Respondent shall provide written notice to EPA of Respondent's irrevocable
3 intent to comply with this Order. Such notice shall be due **no later than 5pm (PST) on July 5,**
4 **2006.** Failure to respond, or failure to provide notice of intent to comply with this Order, shall be
5 deemed a refusal to comply with this Order.

6 **X. OPPORTUNITY TO CONFER**

7 92. Respondent may request a conference with counsel for EPA and the Section Chief
8 of the Superfund Division Site Cleanup Section I, or whomever the Section Chief may designate
9 as her representative. Any such request for a conference shall be conveyed in writing to counsel
10 for EPA **on or before June 27, 2006.** If requested, the conference shall occur **on or before June**
11 **29, 2006** (unless extended by mutual agreement of the Parties) at EPA's Regional Office, 75
12 Hawthorne Street, San Francisco, California or at another location mutually agreed upon by
13 Respondent and EPA.

14 93. At any conference held pursuant to Respondent's request, Respondent may appear
15 in person, or be represented by an attorney or other representative. The purpose and scope of any
16 such conference held pursuant to this Order shall be limited to issues involving the
17 implementation of the Work required by this Order and the extent to which Respondent intends
18 to comply with this Order. If such a conference is held, Respondent may present any evidence,
19 arguments, or comments regarding the Order, its applicability, any factual determinations on
20 which the Order is based, the appropriateness of any action that Respondent is ordered to take or
21 any other relevant and material issue. Any such evidence, arguments or comments should be

1 reduced to writing and submitted to EPA **on or before July 12, 2006**. This conference is not an
2 evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not
3 give Respondent a right to seek review of this Order, or to seek resolution of potential liability,
4 and no official record of the conference will be made. If no conference is requested, any such
5 evidence, arguments or comments must be submitted in writing **on or before July 12, 2006**.

6 Any such writing should be directed to John J. Lyons, Assistant Regional Counsel, at the
7 following address:

8 John J. Lyons, Assistant Regional Counsel

9 Office of the Regional Counsel

10 U.S. EPA, Region 9, Mailcode ORC3

11 75 Hawthorne Street

12 San Francisco, CA 94105

13 94. Respondent is hereby placed on notice that EPA will take any action that may be
14 necessary, in the opinion of EPA, for the protection of public health and welfare and the
15 environment, and Respondent may be liable for the costs of those actions under Section 107(a) of
16 CERCLA, 42 U.S.C. § 9607(a).

17 **XI. ENDANGERMENT AND EMERGENCY RESPONSE**

18 95. In the event of any action or occurrence during the performance of the Work that
19 causes or threatens to cause a release of a hazardous substance or that may present an immediate
20 threat to public health or welfare or the environment, Respondent shall immediately take all
21 appropriate action(s) to prevent, abate, or minimize the threat, and shall immediately notify
22 EPA's primary RPM, or, if the primary RPM is unavailable, EPA's alternate RPM, as designated

1 below in Paragraph 101. If neither of these persons is available, Respondent shall notify the EPA
2 Emergency Response Unit, Region 9, by calling (800) 300-2193. Respondent shall take such
3 action(s) in consultation with EPA's RPM and in accordance with all applicable provisions of
4 this Order, including but not limited to the HASP.

5 96. Nothing in the preceding Paragraph shall be deemed to limit any authority of the
6 United States to take, direct, or order all appropriate action to protect human health and the
7 environment or to prevent, abate, or minimize an actual or threatened release of hazardous
8 substances at or from the 20846 Normandie Avenue Property.

9 **XII. MODIFICATION OF WORK REQUIRED**

10 97. In the event of unanticipated or changed circumstances at the 20846 Normandie
11 Avenue Property or with respect to any aspect of the Work, Respondent shall notify the EPA
12 RPM by telephone within twenty-four (24) hours of discovery of the unanticipated or changed
13 circumstances. This verbal notification shall be followed by written notification postmarked no
14 later than within three (3) days of discovery of the unanticipated or changed circumstances.

15 98. The EPA Superfund Site Cleanup Branch Chief may determine that in addition to
16 tasks addressed herein, additional work may be required to address the unanticipated or changed
17 circumstances. In accordance with Section 106(a) and Section 104(b) of CERCLA, the Branch
18 Chief may direct, as an amendment to this Order, that Respondent perform these tasks in addition
19 to those required herein. Respondent shall implement the additional tasks that the Branch Chief
20 identifies. The additional work shall be completed according to the standards, specifications, and
21 schedules set forth by the Branch Chief in any modifications to this Order.

XIII. DESIGNATED PROJECT MANAGERS

99. EPA designates Susan Keydel, an employee of EPA Region 9, as its primary Remedial Project Manager (RPM) and designated representative, who shall have the authorities, duties, and responsibilities vested in an RPM and/or On-Scene Coordinator ("OSC") by the NCP. This includes, but is not limited to, the authority to halt, modify, conduct, or direct any tasks required by this Order or undertake the Work (or portions of the Work) when conditions at the 20846 Normandie Avenue Property present or may present a threat to public health or welfare or the environment as set forth in the NCP. Respondent has designated Mr. Brian Dean of Earth Tech, Inc. as its Project Coordinator who shall be responsible for overseeing Respondent's implementation of this Order. To the maximum extent possible, all oral communications between Respondent and EPA concerning the activities performed pursuant to this Order shall be directed through EPA's RPM and Respondent's Project Coordinator. All documents, including progress and technical reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be delivered in accordance with Paragraph 81, above.

100. EPA and Respondent may change their respective RPM and Project Coordinator. Notification of such a change shall be made by notifying the other party in writing at least five (5) days prior to the change, except in the case of an emergency, in which case notification shall be made orally followed by written notification as soon as is practicable.

101. Consistent with the provisions of this Order, the EPA designates Richard Hiatt as its alternate RPM, in the event Susan Keydel is unavailable. During such times, Richard Hiatt shall have the authority vested in an RPM or OSC by the NCP, as set forth in Paragraph 99 above.

1 102. The absence of the EPA RPM from the 20846 Normandie Avenue Property shall
2 not be cause for the stoppage of work. Nothing in this Order shall limit the authority of the EPA
3 RPM under federal law.

4 **XIV. ACCESS**

5 103. Respondent shall permit EPA and its authorized representatives (including EPA's
6 contractors), and the State, to monitor any activity conducted pursuant to this Order and to
7 conduct such tests or investigations as EPA deems necessary. Nothing in this Order shall be
8 deemed a limit on EPA's authority under federal law to gain access to the 20846 Normandie
9 Avenue Property or another location (e.g., the Montrose Plant Property).

10 104. To the extent that Respondent requires access to any property, other than property
11 that it owns, to carry out the terms of this Order, Respondent shall, within a reasonable time to
12 implement the requirements of this Order, obtain access for: EPA, its contractors, oversight
13 officials, and other authorized representatives; State oversight officials or contractors; and,
14 Respondent and its authorized contractors and representatives. If Respondent fails to gain access
15 within the time period necessary to implement the requirements of this Order, Respondent shall
16 continue to use best efforts to obtain access until access is granted. For purposes of this
17 Paragraph, "best efforts" include, but are not limited to, the payment of money as consideration
18 for access. If access is not provided within the time referenced above, EPA may obtain access
19 under Sections 104(e) or 106(a) of CERCLA and may seek to recover any costs incurred by EPA.

1 **XV. DELAY IN PERFORMANCE**

2 105. Any delay in the performance of any requirement of this Order that, in the EPA's
3 sole judgment and discretion, is not properly justified by Respondent under the terms of this
4 Section shall be considered a violation of this Order. Any delay in performance of any
5 requirement of this Order shall not affect any other obligation of Respondent under the terms and
6 conditions of this Order.

7 106. Respondent shall notify EPA of any delay or anticipated delay in performing any
8 requirement of this Order. Such notification shall be made by telephone to EPA's primary RPM
9 within twenty-four (24) hours after Respondent first knows or should have known that a delay
10 might occur. Respondent shall adopt all reasonable measures to avoid or minimize any such
11 delay. Within three (3) days after notifying EPA by telephone, Respondent shall provide written
12 notification fully describing: the nature of the delay; any justification for delay, any reason why
13 the Respondent should not be held strictly accountable for failing to comply with any relevant
14 requirements of this Order; the measures planned and taken to minimize the delay; and, a
15 schedule for implementing the measures that will be taken to mitigate the effect of the delay.
16 Increased costs or expenses associated with implementation of the activities called for in this
17 Order are not justifications for any delay in performance.

18 107. If Respondent is unable to perform any activity or submit any document within the
19 time required under this Order, the Respondent may, prior to the expiration of the schedule date,
20 request an extension of time in writing. The extension request shall include a justification for the
21 delay. The submission of an extension request shall not itself affect or extend the time to
22 perform any of Respondent's obligations under this Order.

1 108. If EPA determines that good cause exists for an extension of time, it may grant a
2 request made by Respondent pursuant to Paragraph 107 above, and specify in writing to the
3 Respondent the new schedule for completion of the activity or submission of the document for
4 which the extension was granted.

5 **XVI. RECORD PRESERVATION**

6 109. Respondent shall maintain, during the pendency of this Order, and for a minimum
7 of five (5) years after EPA provides notice to Respondent that the Work has been completed, a
8 repository of the records and documents required to be prepared under this Order. In addition,
9 Respondent shall retain copies of the most recent version of all documents that relate to
10 hazardous substances at the 20846 Normandie Avenue Property and that are in their possession
11 or in the possession of their employees, agents, contractors, or attorneys. After this five-year
12 period, Respondent shall notify EPA at least ninety (90) days before the documents are scheduled
13 to be destroyed. If EPA so requests, Respondent shall provide these documents to EPA.

14 **XVII. ENFORCEMENT AND RESERVATIONS**

15 110. EPA reserves the right to bring an action against Respondent under Section 107 of
16 CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States
17 related to this Order or otherwise incurred with respect to implementation and/or oversight of the
18 Work required by this Order and not reimbursed by Respondent. This reservation shall include
19 but not be limited to past costs, direct costs, indirect costs, the costs of oversight, and the costs of
20 compiling the cost documentation to support oversight costs, as well as accrued interest as
21 provided in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

1 111. Notwithstanding any other provision of this Order, at any time during the Work,
2 EPA may perform its own studies, complete the Work (or any portion of the Work) and seek
3 reimbursement from Respondent for its costs, or seek any other appropriate relief.

4 112. Nothing in this Order shall preclude EPA from taking any additional enforcement
5 action, including modification of this Order or issuance of additional Orders, or additional
6 response actions as EPA may deem necessary, or from requiring Respondent in the future to
7 perform additional activities pursuant to CERCLA, 42 U.S.C. § 9604, § 9606 and/or § 9607(a),
8 et seq., or any other applicable law. Respondent may be liable under CERCLA Section 107(a)
9 for the costs of any such additional actions.

10 113. Notwithstanding any provision of this Order, the United States hereby retains all
11 of its information gathering, inspection and enforcement authorities and rights under CERCLA,
12 the Resource Conservation and Recovery Act, or any other applicable statutes or regulations.

13 114. Notwithstanding compliance with the terms of this Order, including the
14 completion of the EPA-approved Work, Respondent is not released from liability, if any, for any
15 enforcement actions beyond the terms of this Order taken by EPA.

16 115. EPA reserves the right to take any enforcement action pursuant to CERCLA or
17 any other legal authority, including the right to seek injunctive relief, monetary penalties,
18 reimbursement of response costs, and punitive damages for any violation of law or this Order.

19 116. EPA expressly reserves all rights and defenses that it may have, including EPA's
20 right both to disapprove of work performed by Respondent and to request the Respondent to
21 perform tasks in addition to those detailed in Section VIII of this Order.

22 117. This Order does not release Respondent from any claim, cause of action or
23 demand in law or equity, including, but not limited to, any claim, cause of action, or demand that

1 lawfully may be asserted by representatives of the United States or the State.

2 118. No informal advice, guidance, suggestions, or comments by EPA regarding
3 reports, plans, specifications, schedules, and any other writing submitted by Respondent will be
4 construed as relieving Respondent of its obligation to obtain such formal approval as may be
5 required by this Order.

6 **XVIII. SEVERABILITY**

7 119. If any provision or authority of this Order or the application of this Order to any
8 circumstance is held by a court to be invalid, the application of such provision to other
9 circumstances and the remainder of this Order shall not be affected thereby, and the remainder of
10 this Order shall remain in force.

11 **XIX. DISCLAIMER**

12 120. The United States, by issuance of this Order, assumes no liability for any injuries
13 or damages to persons or property resulting from acts or omissions by Respondent, or its
14 employees, agents, successors, assigns, contractors, or consultants in carrying out any action or
15 activity pursuant to this Order. Neither EPA nor the United States shall be held as a party to any
16 contract entered into by Respondent, or its employees, agents, successors, assigns, contractors, or
17 consultants in carrying out any action or activity pursuant to this Order. This Order does not
18 constitute a pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C.
19 Section 9611(a)(2).

1 **XX. PENALTIES FOR NONCOMPLIANCE**

2 121. Respondent is advised pursuant to Section 106(b) of CERCLA, 42 U.S.C.
3 § 9606(b), that violation of this Order or subsequent failure or refusal to comply with this Order,
4 or any portion thereof, may subject Respondent to a civil penalty of up to \$32,500 per day for
5 each day in which such violation occurs, or such failure to comply continues. Failure to comply
6 with this Order, or any portion thereof, also may subject Respondent to liability for punitive
7 damages in an amount three times the amount of any cost incurred by the government as a result
8 of the failure of Respondent to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42
9 U.S.C. Section 9607(c)(3).

10 **XXI. TERMINATION AND SATISFACTION**

11 122. The provisions of this Order shall be deemed satisfied on Respondent's receipt of
12 written notice from EPA that Respondent has demonstrated to the satisfaction of EPA that all of
13 the terms of this Order, including any additional tasks that EPA has determined to be necessary,
14 have been completed.

15 **Unilateral Administrative Order 09-2006-22**

16 IT IS SO ORDERED:

17 UNITED STATES
18 ENVIRONMENTAL PROTECTION AGENCY

19 By: Elizabeth J. Adams
20 Elizabeth J. Adams
21 Chief, Site Cleanup Branch, Superfund Division
22 EPA, Region 9

 Date: June 23, 2006

23 Attachments: Attachment A - FSP, Attachment B - QAPP, and Attachment C - EPA letter (dated
24 6/21/06) conditionally approving the FSP and QAPP

1 EPA Region 9 Contacts:

2 Primary Remedial Project Manager

3 Susan Keydel
4 Superfund Division
5 Mailcode SFD-7-1
6 US EPA, Region 9
7 75 Hawthorne Street
8 San Francisco, CA 94105
9 (415) 972-3106

10 Alternate Remedial Project Manager

11 Richard Hiett
12 Superfund Division
13 Mailcode SFD-7-1
14 US EPA Region 9
15 75 Hawthorne Street
16 San Francisco, CA 94105
17 (415) 972-3170

18 Counsel

19 John Lyons, Assistant Regional Counsel
20 Office of Regional Counsel,
21 Mailcode ORC3
22 EPA, Region 9
23 75 Hawthorne Street
24 San Francisco, CA 94105
25 (415) 972-3889